

the other defendants his children. Soon after the death of the late William, his widow, having been appointed his administratrix,

restraining defendant from selling the goods. *Held*, 1. That after a final decree in favor of complainant and perpetuating the injunction, an objection in the Court of Appeals that the bill made no case entitling complainant to an injunction, if intended as an exception to the jurisdiction of the Court below, came too late. 2. That an injunction was not the primary object of the bill, but ancillary to the relief sought by the prayer for an account and cancellation of the bill of sale, and that the allegations of the bill were amply sufficient to give jurisdiction on those grounds, and to authorize an injunction as an auxiliary remedy. *Laeber v. Langhor*, 45 Md. 477.

Where a junior mortgagee advertises to sell the property free of incumbrances, such sale will be restrained at the instance of a party having a prior lien. *Brick Co. v. Robinson*, 55 Md. 410, 416. But where the junior mortgagee does not so advertise, and is proceeding to sell the property in pursuance of Art. 4. sec. 782, *et seq.* of the Code of Local Laws, he will not be enjoined, at the instance of a prior mortgagee, who was not a party to the cause in which the decree for the sale was obtained, from selling the mortgaged property. Such a sale is made subject to the rights of the prior mortgagee. *Tome v. Loan Co.* 34 Md. 12.

A mortgagee will not be restrained from selling under a power in the mortgage, on the application of a trustee claiming under a deed of trust subsequent to the mortgage, who had also advertised the property, on the ground that the terms of sale were harsh, and that the title would be clouded. *Powell v. Hopkins*, 38 Md. 1. [Under the former Federal Bankrupt law, the power of sale in a mortgage could not be exercised except with the assent of the assignee in bankruptcy. 37 Md. 259; 20 Wallace, 414.]

Application by a mortgagee to stay sale of leasehold property by an administrator, under an order of the Orphans' Court, refused, because the title of the administrator superior in this case, but the bill retained to enforce payment by the administrator to the mortgagee, for improvements, &c. *Gavin v. Carling*, 55 Md. 530. Where no bond, or an insufficient one, has been given by the trustee to sell mortgaged property, an injunction to restrain the sale is not the proper remedy. *Suit v. Creswell*, 45 Md. 529.

Injunction granted on application of a mortgagee of personalty to restrain an officer from selling the equitable interest of the mortgagor in an undivided and ungathered crop and in farming implements, under executions on void judgments against the mortgagor. *Martin v. Jewell*, 37 Md. 530. Injunction granted, at the instance of the State as mortgagee of the C. & O. Canal Co., to prevent an attaching creditor from affecting the Co's moneys. *Brady v. State*, 26 Md. 290. Cf. *Brown v. C. & O. Canal Co.* 115 U. S.

L. obtained a judgment against B. and issued an execution which was levied on certain personalty previously mortgaged by B. to his wards to secure a balance due them on his accounts as guardian. The mortgagees filed a bill to restrain the sale. L. in his answer simply alleged that, by virtue of his execution and levy, he became entitled to a decree for a sale of the property. It was in evidence that the property was not sufficient to pay the mortgage debt. The Court below granted the injunction, but decreed a sale of the property. On appeal by the mortgagees, *held*, 1. That L. having nowhere alleged that his debtor had no other property, and that the property in question was more than sufficient to pay the mortgage debt, the Court below could not assume that a sale under a decree would be of any advan-